

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

AMANDA FRANKS,	)	Case No.: 1:20-cv-01109 NONE JLT
)	
Plaintiff,	)	SCHEDULING ORDER ¹ (Fed. R. Civ. P. 16)
)	
v.	)	Pleading Amendment Deadline: 1/21/2021
)	
BELFOR USA GROUP, INC.,	)	Discovery Deadlines:
	)	Initial Disclosures: 12/4/2020
Defendant.	)	Non-Expert: 6/11/2021
	)	Expert: 8/23/2021
	)	Mid-Discovery Status Conference:
	)	3/1/2021 at 8:30 a.m.
)	
	)	Non-Dispositive Motion Deadlines:
	)	Filing: 9/3/2021
	)	Hearing: 10/1/2021
)	
	)	Dispositive Motion Deadlines:
	)	Filing: 10/28/2021
	)	Hearing: 12/9/2021
)	
	)	Pre-Trial Conference:
	)	1/27/2022 at 8:30 a.m.
	)	Courtroom 4

¹ The Court finds the information provided by the parties in their Joint Scheduling Report (Doc. 9) and worksheet (Doc. 10) is sufficient to schedule the matter without a hearing. Thus, the scheduling conference set for November 9, 2020 is VACATED.

1 **I. Magistrate Judge Consent: Notice of Congested Docket and Court Policy of Trailing**

2 Due to the District Judges' heavy caseload, the adopted policy of the Fresno Division of the
3 Eastern District is to trail all civil cases. The parties are hereby notified that for a trial before a District
4 Judge, the parties will trail indefinitely behind any higher priority criminal or older civil case set on the
5 same date until a courtroom becomes available.

6 The Magistrate Judges' availability is far more realistic and accommodating to parties than that
7 of the U.S. District Judges who carry the heaviest caseloads in the nation and who must prioritize
8 criminal and older civil cases over more recently filed civil cases. A United States Magistrate Judge
9 may conduct trials, including entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of
10 Civil Procedure 73, and Local Rule 305. Any appeal from a judgment entered by a United States
11 Magistrate Judge is taken directly to the United States Court of Appeal for the Ninth Circuit.

12 The Fresno Division of the Eastern District of California, whenever possible, is utilizing United
13 States Article III District Court Judges from throughout the nation as Visiting Judges. Pursuant to the
14 Local Rules, Appendix A, reassignments will be random, and the parties will receive no advance notice
15 before their case is reassigned to an Article III District Court Judge from outside of the Eastern District
16 of California.

17 Therefore, the parties are directed to consider consenting to Magistrate Judge jurisdiction to
18 conduct all further proceedings, including trial. **Within 10 days** of the date of this order, counsel
19 **SHALL** file a consent/decline form (provided by the Court at the inception of this case) indicating
20 whether they will consent to the jurisdiction of the Magistrate Judge.

21 **II. Pleading Amendment Deadline**

22 Any requested pleading amendments are ordered to be filed, either through a stipulation or
23 motion to amend, no later than **January 21, 2021**.

24 **III. Discovery Plan and Cut-Off Date**

25 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
26 on or before **December 4, 2020**.

27 The parties are ordered to complete all discovery pertaining to non-experts on or before **June 11,**
28 **2021**, and all discovery pertaining to experts on or before **August 23, 2021**.

1 The parties are directed to disclose all expert witnesses, in writing, on or before **June 25, 2021**,
2 and to disclose all rebuttal experts on or before **July 23, 2021**. The written designation of retained and
3 non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and**
4 **shall include all information required thereunder**. Failure to designate experts in compliance with
5 this order may result in the Court excluding the testimony or other evidence offered through such
6 experts that are not disclosed pursuant to this order.

7 The written designation of retained and non-retained experts shall **be made pursuant to Fed.**
8 **R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and shall include all information required thereunder**.
9 Failure to designate experts in compliance with this order may result in the Court excluding the
10 testimony or other evidence offered through such experts that are not disclosed pursuant to this order.

11 The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to
12 experts and their opinions. Experts must be fully prepared to be examined on all subjects and opinions
13 included in the designation. Failure to comply will result in the imposition of sanctions, which may
14 include striking the expert designation and preclusion of expert testimony.

15 The provisions of Fed. R. Civ. P. 26(e) regarding a party's duty to timely supplement
16 disclosures and responses to discovery requests will be strictly enforced.

17 A mid-discovery status conference is scheduled for **March 1, 2021** at 8:30 a.m. before Judge
18 Thurston at the United States Courthouse located at 510 19th Street, Bakersfield, California. Counsel
19 SHALL file a joint mid-discovery status conference report one week before the conference. Counsel
20 also SHALL lodge the status report via e-mail to JLTorders@caed.uscourts.gov. The joint statement
21 SHALL outline the discovery counsel have completed and that which needs to be completed as well as
22 any impediments to completing the discovery within the deadlines set forth in this order. Counsel
23 SHALL discuss settlement and certify that they have done so. Counsel may appear via teleconference
24 by dialing (888) 557-8511 and entering Access Code 1652736, provided the Magistrate Judge's
25 Courtroom Deputy Clerk receives a written notice of the intent to appear telephonically no later than
26 five court days before the noticed hearing date.

27 **IV. Pre-Trial Motion Schedule**

28 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later

1 than **September 3, 2021**,² and heard on or before **October 1, 2021**. Non-dispositive motions are heard
2 before the Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States
3 Courthouse in Bakersfield, California.

4 **No motion to amend or stipulation to amend the case schedule will be entertained unless it**
5 **is filed at least one week before the first deadline the parties wish to extend.** Likewise, no written
6 discovery motions shall be filed without the prior approval of the assigned Magistrate Judge. A party
7 with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by
8 agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly
9 shall seek a telephonic hearing with all involved parties and the Magistrate Judge. It shall be the
10 obligation of the moving party to arrange and originate the conference call to the court. To schedule
11 this telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at
12 (661) 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply with Local Rule 251**
13 **with respect to discovery disputes or the motion will be denied without prejudice and dropped**
14 **from the Court's calendar.**

15 Counsel may appear and argue non-dispositive motions via teleconference by dialing (888) 557-
16 8511 and entering Access Code 1652736, provided the Magistrate Judge's Courtroom Deputy Clerk
17 receives a written notice of the intent to appear telephonically no later than five court days before the
18 noticed hearing date.

19 All dispositive pre-trial motions shall be filed no later than **October 28, 2021**, and heard no
20 later than **December 9, 2021**, in Courtroom 4 at 8:30 a.m. In scheduling such motions, **counsel shall**
21 **comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.**

22 **V. Motions for Summary Judgment or Summary Adjudication**

23 **At least 21 days before** filing a motion for summary judgment or motion for summary
24 adjudication, the parties are **ORDERED** to meet, in person or by telephone, to confer about the issues
25 to be raised in the motion.

26 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a
27

28 ² Non-dispositive motions related to non-expert discovery SHALL be filed within a reasonable time of discovery of the dispute, but in not later than 30 days after the expiration of the non-expert discovery deadline.

1 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole
2 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the
3 issues for review by the court; 5) explore the possibility of settlement before the parties incur the
4 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

5 The moving party **SHALL** initiate the meeting and **SHALL** provide a complete, proposed
6 statement of undisputed facts **at least five days before** the conference. The finalized joint statement of
7 undisputed facts **SHALL** include all facts that the parties agree, for purposes of the motion, may be
8 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint
9 statement of undisputed facts.

10 In the notice of motion, the moving party **SHALL** certify that the parties have met and
11 conferred as ordered above or set forth a statement of good cause for the failure to meet and confer.

12 **Failure to comply may result in the motion being stricken.**

13 **VI. Pre-Trial Conference Date**

14 **January 27, 2022** at 8:30 a.m. in Courtroom 4.

15 The parties are ordered to file a **Joint Pretrial Statement pursuant to Local Rule 281(a)(2).**
16 The parties are further directed to submit a digital copy of their pretrial statement in Word format via
17 email at NONEorders@caed.uscourts.gov.

18 Counsels' attention is directed to **Rules 281 and 282 of the Local Rules** of Practice for the
19 Eastern District of California, as to the obligations of counsel in preparing for the pre-trial conference.
20 The Court will insist upon strict compliance with those rules. In addition to the matters set forth in the
21 Local Rules the Joint Pretrial Statement shall include a Joint Statement of the case to be used by the
22 Court to explain the nature of the case to the jury during voir dire.

23 **VII. Settlement Conference**

24 The parties may file a joint written request for a settlement conference if they believe that such
25 a conference would be fruitful.

26 **VIII. Request for Bifurcation, Appointment of Special Master, or other**
27 **Techniques to Shorten Trial**

28 Not applicable.

1 **IX. Related Matters Pending**

2 The parties report this action “is related to the consolidated case *Andres de la Riva Sotelo, on*
3 *behalf of himself and other similarly situated, v. Belfor USA Group, Inc., et al.*, currently pending in the
4 Los Angeles County Superior Court, Case No. BC688895 (Hon. Daniel J. Buckley, presiding).” (Doc.
5 5 at 11)

6 **X. Compliance with Federal Procedure**

7 All counsel SHALL familiarize themselves with the Federal Rules of Civil Procedure and the
8 Local Rules of Practice of the Eastern District of California, and to keep abreast of any amendments
9 thereto. The Court must insist upon compliance with these Rules if it is to efficiently handle its
10 increasing case load and sanctions will be imposed for failure to follow both the Federal Rules of Civil
11 Procedure and the Local Rules of Practice for the Eastern District of California.

12 **XI. Effect of this Order**

13 The foregoing order represents the best estimate of the court and counsel as to the agenda most
14 suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the
15 parties determine at any time that the schedule outlined in this order cannot be met, counsel are ordered
16 to notify the court immediately of that fact so that adjustments may be made, either by stipulation or by
17 subsequent status conference.

18 **The dates set in this order are firm and will not be modified absent a showing of good**
19 **cause even if the request to modify is made by stipulation. Stipulations extending the deadlines**
20 **contained herein will not be considered unless they are accompanied by affidavits or**
21 **declarations, and where appropriate attached exhibits, which establish good cause for granting**
22 **the relief requested.**

23 Failure to comply with this order may result in the imposition of sanctions.

24
25 IT IS SO ORDERED.

26 Dated: November 5, 2020

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE